

SENATE BILL

No. 71

Introduced by Senator Kuehl

(Coauthors: Senators Alpert, Romero, Soto, and Vasconcellos)

(Coauthors: Assembly Members Berg, Bermudez, Chan, Chu, Cohn, Diaz, Hancock, Jackson, Kehoe, Koretz, Laird, Leno, Levine, Lieber, Liu, Longville, Lowenthal, Nation, Negrete McLeod, Pavley, Vargas, and Yee)

January 17, 2003

An act to amend Sections 221.5, 37631, 41840, 48980, and 51851 of, to add Chapter 5.6 (commencing with Section 51930) to Part 28 of, to repeal Sections 51201.5, 51229, 51229.5, 51229.8, and 51240 of, to repeal Article 6 (commencing with Section 51550) of Chapter 4 of Part 28 of, and to repeal Article 11 (commencing with Section 51820) of Chapter 5 of Part 28 of, the Education Code, relating to instruction.

LEGISLATIVE COUNSEL'S DIGEST

SB 71, as amended, Kuehl. Education: sexual health and HIV/AIDS prevention instruction.

Existing law contains various provisions relating to the instruction in the public schools on AIDS prevention, venereal disease and other sexually transmitted diseases, sex, and abstinence from sexual activity, and the manner in which parents or guardians may excuse their child from this instruction.

This bill would consolidate those provisions by establishing the California Comprehensive Sexual Health and HIV/AIDS Prevention Education Act. The act would, among other things, authorize school districts to provide comprehensive sexual health education, as defined, in *any* kindergarten ~~and grades 1~~ to *grade* 12, inclusive, and would

require school districts to ensure that all pupils in grades 7 to 12, inclusive, receive HIV/AIDS prevention education, as defined. The bill would also make conforming changes to related provisions of law and make technical, nonsubstantive changes to some of those provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 221.5 of the Education Code is
2 amended to read:

3 221.5. (a) It is the policy of the state that elementary and
4 secondary school classes and courses, including nonacademic and
5 elective classes and courses, be conducted, without regard to the
6 sex of the pupil enrolled in these classes and courses.

7 (b) A school district may not prohibit a pupil from enrolling in
8 any class or course on the basis of the sex of the pupil, except a
9 class subject to Chapter 5.6 (commencing with Section 51930) of
10 Part 28.

11 (c) A school district may not require a pupil of one sex to enroll
12 in a particular class or course, unless the same class or course is
13 also required of a pupil of the opposite sex.

14 (d) A school counselor, teacher, instructor, administrator, or
15 aide may not, on the basis of the sex of a pupil, offer vocational or
16 school program guidance to a pupil of one sex that is different from
17 that offered to a pupil of the opposite sex or, in counseling a pupil,
18 differentiate career, vocational, or higher education opportunities
19 on the basis of the sex of the pupil counseled. Any school personnel
20 acting in a career counseling or course selection capacity to a pupil
21 shall affirmatively explore with the pupil the possibility of careers,
22 or courses leading to careers, that are nontraditional for that pupil's
23 sex. The parents or legal guardian of the pupil shall be notified in
24 a general manner at least once in the manner prescribed by Section
25 48980, in advance of career counseling and course selection
26 commencing with course selection for grade 7 so that they may
27 participate in the counseling sessions and decisions.

28 (e) Participation in a particular physical education activity or
29 sport, if required of pupils of one sex, shall be available to pupils
30 of each sex.



SEC. 2. Section 37631 of the Education Code is amended to read:

37631. The courses of instruction offered at a school maintained pursuant to this chapter shall meet all applicable requirements of law, including the requirements prescribed by Chapter 2 (commencing with Section 51200) of Part 28 relating to physical education and Chapter 5.6 (commencing with Section 51930) of Part 28. For these purposes the instructional program shall be designed to provide at least the overall equivalent in instruction in each course of study required by law to be provided in kindergarten and grades 1 to 12, inclusive, upon the completion by a pupil of the work prescribed for any particular grade.

SEC. 3. Section 41840 of the Education Code is amended to read:

41840. A school district or county superintendent of schools may only claim average daily attendance for apportionment purposes for schools or classes maintained for adults in correctional facilities if those classes meet the requirements of Section 41976. In addition, any of those classes offered pursuant to paragraph (10) of subdivision (a) of Section 41976 shall meet the requirements of Section 51934, 51202, or 51203, as the case may be.

SEC. 4. Section 48980 of the Education Code is amended to read:

48980. (a) At the beginning of the first semester or quarter of the regular school term, the governing board of each school district shall notify the parent or guardian of a minor pupil regarding the right or responsibility of the parent or guardian under Sections 35291, 46014, 48205, 48207, 48208, 49403, 49423, 49451, 49472, and 51937 and Chapter 2.3 (commencing with Section 32255) of Part 19.

(b) The notification also shall advise the parent or guardian of the availability of individualized instruction as prescribed by Section 48206.3, and of the program prescribed by Article 9 (commencing with Section 49510) of Chapter 9.

(c) The notification shall also advise the parents and guardians of all pupils attending a school within the district of the schedule of minimum days and pupil-free staff development days, and if any minimum or pupil-free staff development days are scheduled thereafter, the governing board shall notify parents and guardians

1 of the affected pupils as early as possible, but not later than one
2 month before the scheduled minimum or pupil-free day.

3 (d) The notification also may advise the parent or guardian of
4 the importance of investing for future college or university
5 education for their children and of considering appropriate
6 investment options including, but not limited to, United States
7 Savings Bonds.

8 (e) Commencing with the 2000–01 school year, and each
9 school year thereafter, the notification shall advise the parent or
10 guardian of the pupil that, commencing with the 2003–04 school
11 year, and each school year thereafter, each pupil completing 12th
12 grade will be required to successfully pass the high school exit
13 examination administered pursuant to Chapter 8 (commencing
14 with Section 60850) of Part 33. The notification shall include, at
15 a minimum, the date of the examination, the requirements for
16 passing the examination, and shall inform the parents and
17 guardians regarding the consequences of not passing the
18 examination and shall inform parents and guardians that passing
19 the examination is a condition of graduation.

20 (f) Each school district that elects to provide a fingerprinting
21 program pursuant to Article 10 (commencing with Section 32390)
22 shall inform parents or guardians of the program as specified in
23 Section 32390.

24 (g) The notification shall also include a copy of the district's
25 written policy on sexual harassment established pursuant to
26 Section 212.6, as it relates to pupils.

27 (h) The notification shall include a copy of the written policy
28 of the school district adopted pursuant to Section 51870.5
29 regarding access by pupils to Internet and online sites.

30 (i) The notification shall advise the parent or guardian of all
31 existing statutory attendance options and local attendance options
32 available in the school district. That notification shall include all
33 options for meeting residency requirements for school attendance,
34 programmatic options offered within the local attendance areas,
35 and any special programmatic options available on both an
36 interdistrict and intradistrict basis. That notification shall also
37 include a description of all options, a description of the procedure
38 for application for alternative attendance areas or programs, an
39 application form from the district for requesting a change of
40 attendance, and a description of the appeals process available, if



1 any, for a parent or guardian denied a change of attendance. The
2 notification shall also include an explanation of the existing
3 statutory attendance options including, but not limited to, those
4 available under Section 35160.5, Chapter 5 (commencing with
5 Section 46600) of Part 26, subdivision (f) of Section 48204, and
6 Article 1.5 (commencing with Section 48209) of Chapter 2 of Part
7 27. The State Department of Education shall produce this portion
8 of the notification and shall distribute it to all school districts.

9 (j) It is the intent of the Legislature that the governing board of
10 each school district annually review the enrollment options
11 available to the pupils within their districts and that the school
12 districts strive to make available enrollment options that meet the
13 diverse needs, potential, and interests of California's pupils.

14 (k) The notification shall advise the parent or guardian that no
15 pupil may have his or her grade reduced or lose academic credit
16 for any absence or absences excused pursuant to Section 48205 if
17 missed assignments and tests that can reasonably be provided are
18 satisfactorily completed within a reasonable period of time, and
19 shall include the full text of Section 48205.

20 (l) The notification shall advise the parent or guardian of the
21 availability of state funds to cover the costs of advanced placement
22 examination fees pursuant to Section 52244.

23 SEC. 5. Section 51201.5 of the Education Code is repealed.

24 SEC. 6. Section 51229 of the Education Code is repealed.

25 SEC. 7. Section 51229.5 of the Education Code is repealed.

26 SEC. 8. Section 51229.8 of the Education Code is repealed.

27 SEC. 9. Section 51240 of the Education Code is repealed.

28 SEC. 10. Article 6 (commencing with Section 51550) of
29 Chapter 4 of Part 28 of the Education Code is repealed.

30 SEC. 11. Article 11 (commencing with Section 51820) of
31 Chapter 5 of Part 28 of the Education Code is repealed.

32 SEC. 12. Section 51851 of the Education Code is amended to
33 read:

34 51851. A course of instruction in automobile driver education
35 shall meet all of the following:

36 (a) Be of at least 2¹/₂ semester periods and shall be taught by
37 a qualified instructor.

38 (b) Provide the opportunity for pupils to take driver education
39 within the regular schoolday, and within the regular academic
40 year, as defined in Section 37250. Additional classes may be

1 offered at the discretion of the local school district governing
2 board, the county superintendent of schools, California Youth
3 Authority, and the State Department of Education, to
4 accommodate the pupils who have failed or who cannot otherwise
5 enroll in the regular schoolday program. For purposes of this
6 section, the regular schoolday shall be that time during which
7 classes are maintained in the courses of instruction provided for in
8 Chapter 1 (commencing with Section 51000), Chapter 2
9 (commencing with Section 51200), Article 1 (commencing with
10 Section 51500), Article 2 (commencing with Section 51510),
11 Article 3 (commencing with Section 51520), and Article 4
12 (commencing with Section 51530) of Chapter 4, and Chapter 5.6
13 (commencing with Section 51930) of this part, and Chapter 2
14 (commencing with Section 58400) of Part 31.

15 (c) Be completed by the pupil within the academic year or
16 summer session in which it was begun.

17 SEC. 13. Chapter 5.6 (commencing with Section 51930) is
18 added to Part 28 of the Education Code, to read:

19

20 CHAPTER 5.6. CALIFORNIA COMPREHENSIVE SEXUAL HEALTH
21 AND HIV/AIDS PREVENTION EDUCATION ACT

22

23 Article 1. General *Provisions*

24

25 51930. (a) This chapter shall be known and may be cited as
26 the California Comprehensive Sexual Health and HIV/AIDS
27 Prevention Education Act.

28 (b) The purposes of this chapter are as follows:

29 (1) To provide a pupil with the knowledge and skills necessary
30 to protect his or her sexual and reproductive health from
31 unintended pregnancy and sexually transmitted diseases.

32 (2) To encourage a pupil to develop healthy attitudes and values
33 ~~about~~ concerning adolescent growth and development, body
34 image, gender roles, sexual orientation, ~~romantic involvement~~
35 dating, marriage, and family.

36 51931. For the purposes of this chapter, the following
37 definitions apply:

38 ~~(a) "Comprehensive sexual health education" means~~

39 (a) "Age appropriate" refers to topics, messages, and
40 teaching methods suitable to particular ages or age groups of



1 *children and adolescents, based on developing cognitive,*
2 *emotional, and behavioral capacity typical for the age or age*
3 *group.*

4 (b) “*Comprehensive sexual health education*” means
5 education regarding human development and sexuality, including
6 education on pregnancy, family planning, and sexually
7 transmitted diseases.

8 ~~(b)~~

9 (c) “English learner” means a pupil as described in
10 subdivision (a) of Section 306.

11 ~~(c)~~

12 (d) “HIV/AIDS prevention education” means instruction on
13 the nature of HIV/AIDS, methods of transmission, strategies to
14 reduce the risk of human immunodeficiency virus (HIV) infection,
15 and social and public health issues related to HIV/AIDS. For the
16 purposes of this chapter, “HIV/AIDS prevention education” is not
17 comprehensive sexual health education.

18 ~~(d)~~

19 (e) “Instructors trained in the appropriate courses” means
20 instructors with knowledge of the most recent medically accurate
21 research on human sexuality, pregnancy, and sexually transmitted
22 diseases.

23 ~~(e)~~

24 (f) “Medically accurate” means verified or supported by
25 research conducted in compliance with scientific methods and
26 published in peer-reviewed journals, where appropriate, and
27 recognized as accurate and objective by professional organizations
28 and agencies with expertise in the relevant field, such as the federal
29 Centers for Disease Control and Prevention, *the American Public*
30 *Health Association, the American Academy of Pediatrics, and the*
31 *American College of Obstetricians and Gynecologists.*

32 ~~(f)~~

33 (g) “School district” includes county boards of education,
34 county superintendents of schools, the California School for the
35 Deaf, and the California School for the Blind.

36 51932. (a) This chapter does not apply to description or
37 illustration of human reproductive organs that may appear in a
38 textbook, adopted pursuant to law, on physiology, biology,
39 zoology, general science, personal hygiene, or health.

(b) This chapter does not apply to instruction or materials that discuss gender, sexual orientation, or family life and do not discuss human reproductive organs and their functions.

Article 2. Authorized Comprehensive Sexual Health
Education

51933. (a) School districts may provide comprehensive sexual health ~~education in kindergarten and grades 1 to education,~~ *consisting of age-appropriate instruction, in any kindergarten to grade 12, inclusive, using instructors trained in the appropriate courses.*

(b) Comprehensive sexual health education, whether taught by school district personnel or outside consultants, shall satisfy all of the following criteria:

(1) Instruction and materials shall be age appropriate.

(2) All factual information presented shall be medically accurate.

(3) Instruction shall be made available on an equal basis to a pupil who is an English learner, consistent with the existing curriculum and alternative options for an English learner pupil *as otherwise provided in this code.*

(4) Instruction and materials shall be appropriate for use with pupils of all races, genders, sexual orientations, ethnic and cultural backgrounds, and pupils with disabilities.

(5) *Instruction and materials shall be accessible to pupils with disabilities, including, but not limited to, the provision of a modified curriculum, materials and instruction in alternative formats, and auxiliary aids.*

~~(5)~~

(6) Instruction and materials shall encourage a pupil to communicate with his or her parents or guardians about human sexuality.

~~(6)~~

(7) Instruction and materials shall teach respect for marriage and committed relationships.

~~(7) If age appropriate~~

(8) *Beginning no later than grade 7, instruction and materials shall teach that abstinence from sexual intercourse is the only certain way to prevent unintended pregnancy and, teach that*

1 *abstinence from sexual activity is the only certain way to prevent*
2 *sexually transmitted diseases, and shall stress the value of*
3 *abstinence while not ignoring those young people who have been*
4 *or are sexually active, and provide information about the value of*
5 *abstinence while also providing medically accurate information*
6 *on other methods of preventing pregnancy and sexually*
7 *transmitted diseases.*

8 ~~(8) If age appropriate~~

9 (9) *Beginning no later than grade 7, instruction and materials*
10 *shall provide information about sexually transmitted diseases.*
11 *This instruction shall include how sexually transmitted diseases*
12 *are and are not transmitted, the effectiveness and safety of all*
13 *federal Food and Drug Administration (FDA) approved methods*
14 *of reducing the risk of contracting sexually transmitted diseases,*
15 *and information on local resources for testing and medical care for*
16 *sexually transmitted diseases.*

17 (10) *Beginning no later than grade 7, instruction and materials*
18 *shall provide information about the effectiveness and safety,*
19 *including the health benefits and side effects, of all contraceptive*
20 *methods in preventing pregnancy and reducing the risk of*
21 *contracting sexually transmitted diseases. safety of all*
22 *FDA-approved contraceptive methods in preventing pregnancy.*

23 ~~(9) If age appropriate~~

24 (11) *Beginning no later than grade 7, instruction and materials*
25 *shall provide pupils with skills for negotiating intimate*
26 *relationships and making and implementing responsible decisions*
27 *about sexuality.*

28 (c) Comprehensive sexual health education shall not include
29 any instruction or materials that do either of the following:

30 (1) Teach or promote religious doctrine.

31 (2) Reflect or promote bias against any person on the basis of
32 any category protected by Section 220.

34 Article 3. Required HIV/AIDS Prevention Education

36 51934. (a) A school district shall ensure that all pupils in
37 grades 7 to 12, inclusive, receive HIV/AIDS prevention education
38 from instructors trained in the appropriate courses. Each pupil
39 shall receive this instruction at least once in junior high or middle
40 school and at least once in high school.

(b) HIV/AIDS prevention education, whether taught by school district personnel or outside consultants, shall satisfy all of the criteria set forth in paragraphs (1) to ~~(5)~~ (6), inclusive, of subdivision (b) and subdivision (c) of Section 51933, shall accurately reflect the latest information and recommendations from the United States Surgeon General, the federal Centers for Disease Control and Prevention, and the National Academy of Sciences, and shall include the following:

(1) Information on the nature of HIV/AIDS and its effects on the human body.

(2) Information on the manner in which HIV is and is not transmitted, including information on activities that present the highest risk of HIV infection.

(3) Discussion of methods to reduce the risk of HIV infection. This instruction shall emphasize that sexual abstinence, monogamy, the avoidance of multiple sexual partners, and abstinence from intravenous drug use are the most effective means for HIV/AIDS prevention, but shall also include statistics based upon the latest medical information citing the success and failure rates of condoms and other contraceptives in preventing sexually transmitted HIV infection, as well as information on other methods that may reduce the risk of HIV transmission from intravenous drug use.

(4) Discussion of the public health issues associated with HIV/AIDS.

(5) Information on local resources for HIV testing and medical care.

(6) Development of refusal skills to assist pupils in overcoming peer pressure and using effective decisionmaking skills to avoid high-risk activities.

(7) Discussion about societal views on HIV/AIDS, including stereotypes and myths regarding persons with HIV/AIDS. This instruction shall emphasize compassion for persons living with HIV/AIDS.

Article 4. In-Service Training

51935. (a) A school district shall cooperatively plan and conduct in-service training for all school district personnel that provide comprehensive sexual health education or HIV/AIDS

1 prevention education, through regional planning, joint powers
2 agreements, or contract services.

3 (b) In developing and providing in-service training, a school
4 district shall cooperate and collaborate with the ~~School Health~~
5 ~~Connections Division of~~ *teachers of the district who provide*
6 *comprehensive sexual health education and HIV/AIDS prevention*
7 *education and with the State Department of Education.*

8 (c) In-service training shall be conducted periodically to enable
9 school district personnel to learn new developments in the
10 scientific understanding of sexual health and HIV/AIDS.
11 In-service training shall be voluntary for school district personnel
12 who have demonstrated expertise or received in-service training
13 from the State Department of Education or federal Centers for
14 Disease Control and Prevention.

15 51936. School districts may contract with outside consultants
16 with expertise in comprehensive sexual health education and
17 HIV/AIDS prevention education, including those who have
18 developed multilingual curricula or curricula accessible to persons
19 with disabilities, to deliver the instruction or to provide training for
20 school district personnel.

21
22 Article 5. Notice and Parental Excuse
23

24 51937. A parent or guardian of a pupil has the right to excuse
25 their child from all or part of comprehensive sexual health
26 education, HIV/AIDS prevention education, and assessments
27 related to that education, as follows:

28 (a) At the beginning of each school year, or, for a pupil who
29 enrolls in a school after the beginning of the school year, at the time
30 of that pupil's enrollment, each school district shall notify the
31 parent or guardian of each pupil about instruction in
32 comprehensive sexual health education and HIV/AIDS prevention
33 education and research on pupil health behaviors and risks planned
34 for the coming year. The notice shall include all of the following:

35 (1) Advise the parent or guardian that written and audio visual
36 educational materials used in comprehensive sexual health
37 education and HIV/AIDS prevention education are available for
38 inspection.

(2) Advise the parent or guardian whether the comprehensive sexual health education or HIV/AIDS prevention education will be taught by school district personnel or by outside consultants.

(3) Information explaining the parent's or guardian's right to request a copy of this chapter.

(4) Advise the parent or guardian that the parent or guardian may request in writing that his or her child not receive comprehensive sexual health education or HIV/AIDS prevention education.

(b) Notwithstanding Section 51513, anonymous, voluntary, and confidential research and evaluation tools to measure pupils' health behaviors and risks, including tests, questionnaires, and surveys containing age appropriate questions about the pupil's ~~personal beliefs or practices in~~ *attitudes concerning or practices relating to sex* may be administered to any pupil in grades 7 to 12, inclusive, if the parent or guardian is notified in writing that this test, questionnaire, or survey is to be administered and the pupil's parent or guardian is given the opportunity to review the test, questionnaire, or survey and to request in writing that his or her child not participate.

51938. (a) A pupil may not attend any class in comprehensive sexual health education or HIV/AIDS prevention education, or participate in any anonymous, voluntary, and confidential test, questionnaire, or survey on pupil health behaviors and risks, if the school has received a written request from the pupil's parent or guardian excusing the pupil from participation.

(b) A pupil may not be subject to disciplinary action, academic penalty, or other sanction if the pupil's parent or guardian declines to permit the pupil to receive comprehensive sexual health education or HIV/AIDS prevention education or to participate in anonymous, voluntary, and confidential tests, questionnaires, or surveys on pupil health behaviors and risks.

(c) While comprehensive sexual health education, HIV/AIDS prevention education, or anonymous, voluntary, and confidential test, questionnaire, or survey on pupil health behaviors and risks is being administered, an alternative educational activity shall be made available to pupils whose parents or guardians have

- 1 requested that they not receive the instruction or participate in the
- 2 test, questionnaire, or survey.

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